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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,071	04/10/2001	Raizo Kuge	H01-4730	7421
466	7590	02/24/2004		
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			EXAMINER HARMON, CHRISTOPHER R	
			ART UNIT 3721	PAPER NUMBER 15
DATE MAILED: 02/24/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/829,071

Applicant(s)

KUGE ET AL.

Examiner

Christopher R Harmon

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2004.  
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 12-30 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 12-30 is/are rejected.  
7) ☒ Claim(s) 26-30 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Objections***

1. Claims 26-30 are objected to because of the following informalities: the language "connecting the side edges of the pair of flat surfaces" is repeated in claims 26 and 29, lines 4-5. "fim" should be ~~film~~—(claim 26, step e). Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 12-14, 16-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "in a direction opposite said longitudinal edge" claims 12 and 16, line 15 is unclear. It is unclear how the longitudinal edge of the flat films is opposite any direction.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in—  
an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published

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under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or  
a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

5. Claims 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Ouchi (US 6,068,585).

Ouchi disclose a method of producing a gored packing bag including pair of flat films 11 and 16 moving in a longitudinal direction; inserting side films 12 in a perpendicular direction not extending to a longitudinal edge of flat films 11 and 16; supplying zipper 14; see figure 8. Flat films 1 and 2 are kept apart while forming gores and are sealed to each other away from gores.

6. Claim 15 is rejected under 35 U.S.C. 102(e) as being anticipated by Broenstrup (US 6,425,847).

Broenstrup discloses a method of producing a gusseted bag comprising separating and transferring flat films 1 and 3, inserting side films 14 between opposing films 1 and 3 transversely to the feed direction, sealing flat films 1, 3 and side films 14 at welder 29 to form strip film, forming an open surface on side film 14 by tucking at a crease and folding corners 17 at the end of side film 14 in an inward direction, and cutting film by cutter 33; see figures 1a and 1b. V-shaped bottom film 21' is further sealed to flat films 1 and 3. Strip film is cut along cutting line 31 forming individual bags adjacent to one another.

Side films 14 are in the shape of two V-shaped films opposing one another by folding ends 10 and 12 to a center-line; see figure 1a. The films form "boat shapes" with convex edges 17'.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 12-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ouchi (US 6,068,585) in view of Broenstrup (US 6,425,847).

Ouchi do not directly disclose means for moving flat webs apart and tucking in gores however Broenstrup teach folding mechanism 23 for moving flat webs apart and back together, tucking in gores; see figure 8. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of Broenstrup in the invention to Ouchi for forming a desired gore.

9. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Broenstrup (US 6,425,847) in view of Richison et al. (US 5,147,272).

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Broenstrup does not disclose severing the films in a longitudinal direction midlength of side films, however Richison et al. teach forming gusseted bags with a midlength separation; see figure 10. It would have been obvious to one of ordinary skill in the art at the time the invention was made to duplicate the end forming invention of Broenstrup by using the teachings of Richison et al. and form adjacent bags for faster production.

***Allowable Subject Matter***

10. Claims 26-30 are allowable over the prior art of record.

***Response to Arguments***

11. Applicant's arguments filed 2/13/04 have been fully considered but they are not persuasive. Regarding Ouchi see first line of the Abstract.

Regarding Broenstrup, the longitudinal direction of the side films is transverse to the longitudinal direction of the flat films and are separate until the gore construction.

In response to applicant's argument that the combination would produce no securement of the flat films, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).


### ***Conclusion***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R Harmon whose telephone number is 703-308-8643. The examiner can normally be reached on Monday-Thursday from 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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EUGENE KIM  
PRIMARY EXAMINER